

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:09cr100

UNITED STATES OF AMERICA,)

)

)

vs.

)

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)

ROBIN KNIGHT SMITH and)

CHARLES PHILLIP SMITH.)

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ORDER

THIS MATTER is before the Court on the Government's Motion Requesting Peremptory Setting [Doc. 42].

This case is the oldest case appearing on the January 2011 term of Court, which is scheduled to begin Monday, January 3, 2011. The Assistant United States Attorney requests that this case receive a peremptory setting of January 12, 2011 so that witnesses may be notified of the likely date of their testimony. He also states that the trial is expected to last five days or more and he has plans to be out of town from January 7, 2011 through January 11, 2011, where his wife is planning to run in a marathon race.

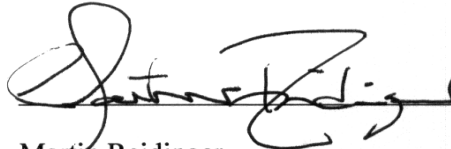
The docket for the January Term appears to be full, with at least three matters expected to try. For this reason the Court would only be able to

provide a peremptory setting for the beginning of the term. Jury selection will be on Tuesday, January 4, 2011, along with the other criminal trial(s) to be heard in the term. Evidence would begin the next morning. That is only way that the Court would be able to accommodate counsel's request for certainty in the schedule for the purpose of coordinating witnesses and other participants.

For these reasons the motion seeking a peremptory setting for January 12, 2011, must be denied.

IT IS, THEREFORE, ORDERED that the Government's Motion Requesting Peremptory Setting [Doc. 42] is hereby **DENIED**.

Signed: December 13, 2010


Martin Reidinger
United States District Judge

